

REMARKS

Reconsideration and allowance of this application are respectfully requested in view of the foregoing amendments and the following explanations and remarks.

Applicant's newly appointed agent has carefully reviewed the outstanding Office Action dated May 7, 2007 and the references cited against the claims as previously amended, and has canceled claims 1-43 and presented a new set of claims that describe and define the invention in more full, clear, concise, and exact terms to more clearly distinguish Applicant's claimed invention over the references. No new matter has been added and support for the amendatory language and newly presented claims is found throughout the specification, drawings, and claims, as originally submitted.

In the previous office action, Claims 1-5, 9 and 12-13 were rejected under 35 U.S.C. §102(e) as being anticipated by Burgess (US 6,640,465). Claims 1-9, 12-18, 20-36 and 39-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turtzo (U.S. App. No. 09/875,357 - now US 6,699,209) in view of Burgess. Claims 10 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turtzo and Burgess and further in view of Shaw (US 5,897,518). Claims 37-38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turtzo and Burgess and further in view of Dalton (U.S. App. No. 2004/0118017 - now US 7,107,705).

It is respectfully submitted that the combination of structural and functional features as set forth in the newly presented claims are not shown, suggested or taught by the cited references alone or in combination and that the newly presented claims are not anticipated nor obvious based on the cited references for the reasons set forth below.

Before discussing the rejections under 35 U.S.C. 102(e) and 103(a), it is believed that a brief discussion of the invention as recited in the newly presented claims, and a discussion of the teachings of the references, would be helpful.

Newly presented base claim 44 defines applicants invention as an orthotic plantar fascia support device for reducing stress on the plantar fascia of a human foot, comprising: a thin flexible stretch-resistant device having a sole engaging surface sized and shaped to engage the outer skin tissue on the sole of the foot and extend along the plantar fascia region of the foot from about the ball of the foot to the heel of the foot for providing support to the plantar fascia region of the foot; an adhesive layer on the sole engaging surface for adhering the device to the outer skin tissue on the sole of the foot, and a protective cover removably disposed over the adhesive layer which,

when removed, exposes the adhesive layer; the stretch-resistant device sufficiently stretch-resistant to restrict extension and stretching of the outer skin tissue on the sole of the foot when adhered thereto, such that tension forces applied to the plantar fascia from forces on the arch of the foot which push the bones of the foot downwardly are shared with the device to restrict stretching of, and reduce tension in, the plantar fascia.

The Burgess reference (US 6,640,465) is a resilient “foot protector”, that merely provides comfort and protects the wearer’s foot from contact with floor surfaces when faced with the prospect of walking barefoot across surfaces that may be unsanitary, cold, wet, hot, slippery or otherwise undesirable, such as entering or exiting a spa, a health club, medical facility, going to or from or in a shower at a gym or the like, or when removing their daily wear shoes before entering a private home of another to avoid walking barefoot in the home. The Burgess “foot protector” includes a “resilient” sheet or “cushion member” of substantially uniform thickness (about 1 mm to about 5mm, preferably about 2 mm) having a foot-contact surface and a tack adhesive layer on at least a portion of the foot-contact surface. Burgess teaches at column 3, lines 15-22, that a thickness of about 1 mm to about 5 results in a foot protector (100) that has enough “resilience, or cushion effect”, “to provide comfort to the foot” of the wearer, but which is lightweight enough that it can be held to the foot (200) with “an adhesive that has relatively low tack, or stickiness.” Burgess teaches at column 3, lines 46-50, that the “resilient” sheet allows “increased mobility” as the foot protector (100) is able to adjust to “flexing of the foot” during normal walking or running movements “without inhibiting foot movement” or causing the tack adhesive to tear away from the foot. Burgess teaches at column 5, lines 6-9 that that while a foot protector (100) is shown attached directly to a foot (200), “the foot protector may also be attached to a stocking or sock worn on the foot, with the tack adhesive releasably bonding to the stocking or sock of a wearer’s foot.”

The Turtzo reference (U.S. App. No. 09/875,357 - now US 6,699,209) is a foot splint for treatment of plantar fasciitis. The splint comprises an elongated “rigid plate” (12) interposed between a first “resilient” layer (16) and second “resilient” layer (18) and has an angularly elevated proximal region (36) for securing a patient’s heel in an elevated position relative to the mid-portion of the foot, and an angularly elevated distal region (38) for securing the user’s toes in an elevated position relative to the mid-portion of the foot. At least one elongated strap member (14) extends from the periphery of the plate for securing the mid-portion of the foot to the upper

surface of the rigid splint such that the elevated distal region elevates the toes and elevated proximal region elevates the heel of the foot for “stretching the plantar fascia of the foot.” A heel-retaining portion (40) interposed between the rigid plate (12) and first resilient layer (16) extends upwardly along the elevated proximal region (36) and is connected to the strap member (14) by adjustable straps (42). In operation, a patient's foot is placed in the upper surface of the splint with the patient's toes placed in a dorsiflexed position along elevated distal region (38), and the patient's heel is raised along the elevated proximal region (36). By dorsiflexing the patient's toes, “the patient's plantar fascia is thereby stretched”. Upon attaching the strap (14) about foot (54) and attaching heel-retaining portion (40) to the strap (14), a three-point pressure system is established that “provides maximum stretch to the patient's plantar fascia”.

The Shaw reference (US 5,897,518) discloses a foot and ankle therapeutic compression device made of essentially non-elastic fabric having a Velcro® outer loop surface and an inner surface that includes a central region for engaging the arch of the sole of the foot, one or more pairs of wrap around foot compression bands extending outwardly in opposite directions from both sides of the central region, one of the bands having a slot so that an opposite band can be threaded through the slot to apply controlled compression to the foot and both bands having hook surfaces at the ends so that they can be anchored to the outer loop surface to maintain the controlled compression. The device also includes a pair of spaced-apart ankle compression bands extending rearwardly from the device, one of the ankle bands having a slot to permit the other ankle band to be threaded through it and pulled apart to apply a controlled compression to the ankle, the bands also having hook surfaces at the ends to permit them to be anchored to the outer loop surface to maintain the compression applied to the ankle. The central region that engages the bottom of the foot, is preferably marked with suitable indicia (11), such as crossed lines, to help center the device under the arch of the foot.

Applicant is no longer pursuing claims directed toward indicia for indicating the order in which portions of the device are to be attached to the foot.

The Dalton reference, (U.S. App.No.2004/0118017 - now US 7,107,705) is a replaceable resilient insole that fits inside of a shoe and is made from a base of molded foam material and provided with a raised edge along the arch and around the heel. In a preferred embodiment, the base is covered with top sheet. Additionally, in a preferred embodiment, a series of air ports extend through the base and the top sheet to permit air circulation above and below the insole. In

a preferred embodiment, the top sheet is a non-woven fabric layer with a film laminated to the back side, which serves as a barrier so that liquid foam used in molding the base does not penetrate the fabric during the molding operation, and also acts as a moisture barrier between the fabric and the foam in use. In a preferred embodiment, the fabric top sheet is treated with an antibacterial agent, which in combination with the moisture barrier reduces odor causing bacteria and fungus.

The rejection under 35 U.S.C. 102(e)

For a claimed invention to be properly rejected under 35 U.S.C. 102, the claimed invention must be completely described or illustrated within the four corners of a single prior art reference.

The Seventh Circuit has also stated that:

“anticipation is strictly a technical defense...unless all of the same elements [of the sought-to-be patented device] are found [in a single prior art reference] in exactly the same situation and united in the same way to perform an identical function, [the former is not anticipated by the latter.]”

Illinois Tool Works, Inc. v. Sweetheart Plastics, Inc. 436 F.2d 1180, 1182-83, 168 USPQ 451, 453-454 (7th Cir. 1971).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

With regard to the rejection in the Office Action of the previous claims under 35 U.S.C. §102(e) as being anticipated by Burgess (US 6,640,465), it is respectfully submitted that Burgess clearly does not disclose all of the same elements of applicant's claimed invention, as now recited in newly presented base claims 44, 56, 60 and 62 **in exactly the same situation and united in the same way to perform an identical function.**

Burgess does not show or suggest an orthotic plantar fascia support device **for reducing stress on the plantar fascia** of a human foot. Instead, Burgess is directed toward a resilient “foot protector”, that merely provides comfort and protects the wearer's foot from contact with floor surfaces that may be unsanitary, cold, wet, hot, slippery or otherwise undesirable.

Burgess does not show or suggest a thin flexible, **stretch-resistant** device having a sole engaging surface sized and shaped to engage the outer skin tissue on the sole of the foot extending along the plantar fascia region from about the ball of the foot to the heel of the foot **for providing support to the plantar fascia region of the foot**. Instead, Burgess teaches a “resilient” sheet or “cushion member” of substantially uniform thickness (about 1 mm to about 5mm, preferably about 2 mm), and that a thickness of about 1 mm to about 5 results in a foot protector that has enough “resilience, or cushion effect”, “to provide comfort to the foot” of the wearer.

Burgess does not show or suggest a thin flexible, **stretch-resistant** device **sufficiently stretch-resistant to restrict extension and stretching of the outer skin tissue when adhered thereto such that tension forces applied to the plantar fascia** from forces on the arch of the foot which push the bones of the foot downwardly **are shared with the device to restrict stretching of, and reduce tension in, the plantar fascia**.

Instead, Burgess teaches that the “resilient” sheet “allows increased mobility” as the foot protector is able to adjust to “flexing of the foot” during normal walking or running movements “without inhibiting foot movement.” Thus, Burgess expressly teaches that the device performs just the opposite function of Applicant’s recited stretch-resistant device, which is to restrict stretching and reduce tension in the plantar fascia. The “resilient” sheet “cushion member” structure of Burgess would inherently be incapable of performing the identical function recited in the Applicant’s claims.

The remarks set forth above are equally applicable to newly presented base claims 56 and 60, which contain all of the essential structural and functional features of base claim 44 and include a stretch-resistant strap, and stretch-resistant arch strap, respectively. Burgess does not show or suggest any straps. The remarks set forth above are equally applicable to newly presented base claim 62, which contains essentially the structural and functional features of base claim 44 but presented as a method claim.

Therefore, it is respectfully submitted that Burgess clearly does not disclose **all of the same elements in exactly the same situation and united in the same way to perform the identical function** as recited in newly presented base claims 44, 56, 60 and 62, and therefore claims 44, 56, 60 and 62 are not anticipated by the Burgess reference, and should now be allowable base claims.

The rejection under 35 U.S.C. 103(a)

"The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

References may not be combined to show obviousness in the absence of something in the prior art suggesting the desirability of the proposed combination. In re Bond, No. 90-1023, slip op. at 6 (Fed. Cir. Aug. 3, 1990); In re Grabiak, 769 F.2d 729 (Fed. Cir. 1985).

References cannot properly be combined with each other when such would result in destroying that on which the invention of one of the references is based. Ex parte Hartmann, 186 U.S.P.Q. 298,301.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The court held that the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." (270 F.2d at 813, 123 USPQ at 352.).

The proposed combination of Turtzo in view of Burgess

With regard to the rejection in the Office Action of the previous claims under 35 U.S.C. §103(a) based on the combination of Turtzo (U.S. App. No. 09/875,357 - now US 6,699,209) in view of Burgess, it is respectfully submitted that the proposed combination and modification is not suggested and, even if combined, does not suggest the device as now recited in newly presented base claims 44, 56, 60 and 62, and that substantial reconstruction and redesign of the elements shown in the references as well as a change in the basic principle under which they were designed to operate would be required in order to incorporate the features of the claims.

Although the primary reference Turtzo is a foot splint for treatment of plantar fasciitis, the splint comprises an elongated "rigid plate" interposed between a first and a second "resilient" layer and has an angularly elevated proximal end for securing the heel in an elevated position relative to the mid-portion of the foot, and an angularly elevated distal end for securing the user's toes in an elevated position relative to the mid-portion of the foot for "stretching the plantar fascia of the foot". In operation, the foot is placed in the upper surface of the splint with the patient's toes placed in a dorsiflexed position along elevated distal end, and the patient's heel is raised along

the elevated proximal end. By dorsiflexing the patient's toes, "the patient's plantar fascia is thereby stretched". Upon attaching a strap about the foot and attaching heel-retaining portion to the strap, a three-point pressure system is established that "provides maximum stretch to the patient's plantar fascia".

It is respectfully submitted that both references "teach away" from the desirability of the proposed combination, and operate on a different principle from Applicant's claimed device and method.

Turtzo teaches away from the desirability of providing a plantar fascia support device **for reducing stress on the plantar fascia** of a human foot. Unlike Applicant's device, Tortzo teaches that by dorsiflexing the patient's toes, "the patient's plantar fascia is thereby stretched", and upon attaching a strap about the foot and attaching heel-retaining portion to the strap, a three-point pressure system is established that "provides maximum stretch to the patient's plantar fascia". The secondary reference Burgess teaches that the "resilient" sheet "allows increased mobility" as the foot protector is able to adjust to "flexing of the foot" during normal walking or running movements "without inhibiting foot movement."

Both Turtzo and Burgess "teach way" from the desirability of providing a **thin flexible, stretch-resistant** device having a sole engaging surface sized and shaped to engage the outer skin tissue on the sole of the foot extending along the plantar fascia region of the foot from about the ball of the foot to the heel of the foot for providing support to the plantar fascia region of the foot. Unlike Applicant's device, Turtzo teaches an elongated "rigid plate" between a pair of "resilient" layers and provides angularly elevated proximal end for securing the heel in an elevated position relative to the mid-portion of the foot, and an angularly elevated distal end for securing the user's toes in an elevated position relative to the mid-portion of the foot for "stretching the plantar fascia of the foot". Turtzo teaches placing the patient's toes in a dorsiflexed position along elevated distal end, and the patient's heel in a raised position along the elevated proximal end. The secondary reference Burgess teaches a "resilient" sheet or "cushion member" of substantially uniform thickness that has enough "resilience, or cushion effect", "to provide comfort to the foot" of the wearer that "allows increased mobility" as the foot protector is able to adjust to "flexing of the foot" during normal walking or running movements "without inhibiting foot movement."

Both Turtzo and Burgess “teach way” from the desirability of providing a thin flexible, **stretch-resistant device sufficiently stretch-resistant to restrict extension and stretching of the outer skin tissue when adhered thereto so that tension forces applied to the plantar fascia** from forces on the arch of the foot which push the bones of the foot downwardly **are shared with the device to restrict stretching of, and reduce tension in, the plantar fascia.** Unlike Applicant’s device, Turtzo teaches a device that places the patient's toes in an elevated dorsiflexed position and the patient's heel in a raised position relative to the mid-portion of the foot to establish a three-point pressure system for “stretching the plantar fascia of the foot” and that “provides maximum stretch to the patient's plantar fascia”. The secondary reference Burgess teaches a “resilient” sheet or “cushion member” that “allows increased mobility” and is able to adjust to “flexing of the foot” during normal walking or running movements “without inhibiting foot movement.”

Thus, both reference teach providing devices that perform just the opposite function of Applicant’s recited stretch-resistant device and method, which is to **restrict stretching and reduce tension in the plantar fascia**, and the structures of both references would be incapable of functioning in the manner recited in Applicant’s claims.

It is respectfully submitted that in order to meet the structural and functional features recited in base claims 44, 56, 60 and 62, one would have to eliminate the “rigid plate”, the “resilient” layers, and the angularly elevated proximal and distal ends which elevate the toes and heel relative to the mid-portion of the foot (three-point pressure system), as taught by Turtzo, and eliminate the “resilient” sheet “cushion member” structure of Burgess. One would also have to completely reverse the principle of operation of “stretching the plantar fascia of the foot” and “providing maximum stretch to the patient's plantar fascia”, as taught by Turtzo, and the principle of operation of “allowing increased mobility” and ability to adjust to “flexing of the foot” during normal walking or running movements “without inhibiting foot movement”, as taught by Burgess. Thus, such a modification would render both references unworkable for their intended purpose and would change their principle of operation

Therefore, it is respectfully submitted that base claims 44, 56, 60 and 62 contain a combination of elements working together as a whole and that function in a manner not anticipated or obvious based on the teachings of Turtzo and Burgess, alone or in combination, and should now be allowable base claims.

The remarks set forth above are equally applicable to newly presented dependent claims 45-47 which contain all of the structural and functional features of base claim 44 plus additional features directed toward the thickness and stretch-resistant properties of Applicant's device that are not shown or suggested by the proposed combination and modification, as discussed below.

There is no suggestion in Turtzo or in Burgess for the desirability of providing a thin flexible stretch-resistant device having a uniform thickness of less than about 30 mils (0.762 mm) or formed of a fabric material having a thickness of less than about 30 mils (0.762 mm); or of a thin flexible stretch-resistant device having less than 15% elongation when subjected to a tensile load approximately equivalent to 25 pounds/inch. Although the sandwiched "rigid plate" member of Turtzo may be stretch-resistant, it clearly is not flexible, and it is disposed between a pair of "resilient layers", and it is not adhered to the sole of the foot. There is no suggestion in Turtzo, nor would there be any reason, to modify the structure to be flexible, to have a uniform thickness less than about 30 mils (about 0.762 mm) and to adhere it to the foot.

The secondary reference Burgess teaches away for the desirability of a thin flexible stretch-resistant device having a thickness of less than about 30 mils (less than about 0.762 mm). Burgess teaches a "resilient" sheet or "cushion member" of substantially uniform thickness that has enough "resilience, or cushion effect", "to provide comfort to the foot" of the wearer that "allows increased mobility" as the foot protector is able to adjust to "flexing of the foot" during normal walking or running movements "without inhibiting foot movement."

Burgess teaches that the foot protector "preferably has a thickness in the range of about 1 mm to about 5 mm, with a thickness of about 2 mm being particularly advantageous", and that a thickness of about 1 mm to about 5 results in a foot protector that has enough "resilience, or cushion effect", "to provide comfort to the foot" of the wearer. Thus (converting Burgess's mm to mil) Burgess teaches a desirable thickness in the range of from about 39.370 mil (1mm) to about 196.850 mil (5 mm), with a preferred thickness of about 78.740 mil (2mm). Thus Burgess would lead one skilled in the art to provide a resilient cushioning member having a thickness **greater** than recited in Applicant's claims, in order to achieve the required "resilience, or cushion effect" and "comfort to the foot". Applicant's thickness of less than 30 mils allows the wearer to pull a sock over the foot and to wear shoes while the device is adhered to the sole of the foot, which would difficult or impossible with the Burgess device.

Therefore, it is respectfully submitted that dependent claims 45-47 contain all of the structural and functional features of an allowable base claim plus additional features working together as a whole and that function in a manner not anticipated or obvious based on the teachings of Turtzo and Burgess, alone or in combination, and should now be allowable along with base claims 44 and 56, 60 and 62.

The remarks set forth above are equally applicable to newly presented dependent claims 48-54, 57-59 and 61 which include all of the features of base claims 44, 56 and 60, respectively, plus additional structural and functional features directed toward the straps and method of attachment of Applicant's device that are not shown or suggested by the proposed combination and modification of Turtzo and Burgess.

Turtzo teaches at least one elongated strap member (14) that extends from the periphery of the rigid plate and a heel-retaining portion (40) interposed between the rigid plate (12) and the first resilient layer (16), which extends upwardly along the elevated proximal region (36) and is connected to the strap member (14) by adjustable straps (42). The first strap (14) is attached about the foot and the heel-retaining portion (40) is attached to the first strap (14) by the adjustable straps (42) to achieve a three-point pressure system for securing the mid-portion of the foot to the upper surface with the toes and the heel of the foot elevated for providing "maximum stretch to the the plantar fascia". The heel retaining portion (40) of Turtzo is not a strap, and appears to be merely a cushion.

There is no suggestion in Turtzo for adhering an arch strap to the outer skin tissue, **to provide resistance to vertical and lateral movement of the talus, the navicular, the cuneiform, and the cuboid of the foot and reducing vertical and lateral tension forces applied to the plantar fascia** from forces on the arch of the foot which push the bones of the foot downwardly. There is also no suggestion in Turtzo for **adhering a stretch-resistant heel strap** to the outer skin tissue of the heel of the foot **to reduce tension forces transferred between the heel and the plantar fascia**. There is also no suggestion in Turtzo for providing **a stretch-resistant front strap** having opposed ends extending laterally outward from opposite sides the device and **adhering the front strap to the outer skin tissue on the sides and top of the ball portion of the foot to provide support to the area adjacent to the ball of the foot to reduce tension forces transferred between the ball of the foot and the plantar fascia**.

Turtzo clearly teaches away from these features and the desirability of such an operation. Turtzo teaches completely the reverse principle of operation in that the strap (14) used to pull the arch vertically downward and induce (rather than restrict) tension forces to provide “maximum stretch to the plantar fascia”. The device taught by Turtzo would also induce (rather than restrict) tension forces transferred between the heel and the plantar fascia, and would induce (rather than restrict) tension forces transferred between the ball of the foot and the plantar fascia. The secondary reference Burgess does not show or suggest an arch strap, a heel strap, or a front strap.

Therefore, it is respectfully submitted that dependent claims 48-54, 57-59 and 61 contain all of the structural and functional features of an allowable base claim plus additional features and attachment methods working together as a whole and that function in a manner not anticipated or obvious based on the teachings of Turtzo and Burgess, alone or in combination, and should now be allowable along with base claims 44, 56, 60 and 62.

The proposed combination of Turtzo and Burgess in view of Dalton

With regard to the rejection of the claims under 35 U.S.C. §103(a) in the previous Office Action based on the combination of Turtzo and Burgess and further in view of Dalton (U.S. App. No. 2004/0118017 - now US 7,107,705), Dalton was cited as teaching a support device having an insole treated with an antibacterial agent.

Dalton teaches a replaceable “resilient insole” that fits inside of a shoe and is made from a base of “molded foam” material and provided with a raised edge along the arch and around the heel. In a preferred embodiment, the base is covered with non-woven fabric top sheet with a moisture barrier film layer disposed therebetween, and a series of air ports extend through the base and the top sheet to permit air circulation above and below the insole. Also, in a preferred embodiment, the fabric top sheet is treated with an antibacterial agent, which in combination with the moisture barrier reduces odor causing bacteria and fungus.

The remarks set forth above regarding the proposed combination of Turtzo and the “resilient foot protector” of Burgess are equally applicable to the combination in view of Dalton and equally applicable to newly presented dependent claim 55 which includes all of the features of base claim 44 working together as a whole. Dalton also teaches away from the desirability of a thin flexible stretch-resistant device having all of the features recited in base claim 44.

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Merely because insole devices such as Dalton treated with an antibacterial agent are known, it does not necessarily follow that it would be obvious employ them in a device having all of the features of base claim 44 working together as a whole.

Claim 55 should be considered in its entirety including all of the limitations of base claim 44. Applicant is not attempting to claim the antibacterial agent independently apart from the whole combination, nor suggesting that this individual feature be withdrawn from the public domain, but is claiming it only in combination with the specific combination of structural and functional features recited in base claim 44. Even if it were legitimate to combine and modify the references, the proposed combination would not produce all of the elements of claim 55 including all of the structural and functional features recited in base claim 44 working together as a whole.

Therefore, it is respectfully submitted that dependent claim 55 including all of the structural and functional features recited in base claim 44 working together as a whole should be allowable along with base claim 44.

The proposed combination of Turtzo and Burgess in view of Shaw

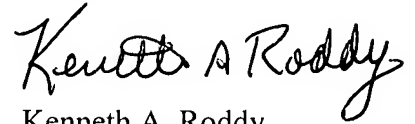
With regard to the rejection of the claims under 35 U.S.C. §103(a) in the previous Office Action based on the combination of Turtzo and Burgess and further in view of Shaw (US 5,897,518), Shaw was cited as teaching a support device having indicia that help center the device under the arch of the feet. Applicant is no longer pursuing claims directed toward indicia for indicating the order in which portions of the device are to be attached to the foot. Therefore, further discussion of the combination and modification based on the Shaw reference is believed to be moot.

Accordingly, in view of the foregoing amendments, explanations and remarks it is respectfully requested that the finality of the rejection be withdrawn, and that claims 44-66 be entered and allowed, and that this application be passed to issue.

Prior to this RCE, this application contained a total of 43 claims, 2 of which were independent claims, and the required excess claims fee was paid for 13 dependent claims in excess of 20. There are now a total of 23 claims, 4 of which are independent. In addition to the RCE filing fee of \$385, a check in the amount of \$100 is attached for 1 independent claim in excess of 3.

In the event that there are any questions concerning this amendment or the application in general, the Examiner is cordially invited to telephone the undersigned agent so that prosecution may be expedited.

Respectfully submitted,

A handwritten signature in black ink, reading "Kenneth A. Roddy". The signature is fluid and cursive, with the first name "Kenneth" and last name "Roddy" clearly legible.

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